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Legal DEPARTMENT

A. BRANCH

Subject:—

Opinions under the Bombay Explosion (Compensation) Ordinance 1944

File No. O · Exp · Compen/45-307/A

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1.	R.I.No. 2461 /22-3-45 O. No. 2781 / 11-4-45	Question whether the contractors M/S. Rawji Sojpal & Sons have any legal claim to a total sum of Rs.88,865/- an amount of the extra cost incurred in the construction of godowns for storing grains in the compound of the Spring Mills at Naigum, Bombay.	1-4.

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2461/22.3.45.

Submitted with ref. to P.W.D. note dated 19.3.45 (pp.25-26 ante).

2. The R.L.A. has been requested by the P.W.D. to state whether the contractors Messrs Rawji Sojpal and Sons have any legal claim to a total sum of Rs.88,865 (pp.1-11 ante) on account of the extra cost incurred by them in the construction of godowns for storing grains in the compound of the Spring Mills at Naigum, Bombay.

3. By Govt. letter in the P.W.D. No.6407/36-W dated the 4th April 1944, the lowest tender of Messrs Rawji Sojpal and Sons, amounting to Rs.4,16,603 (cf. p. 24, para. 2 of P.W.D. file No. 6407/3611 II and p. 25 para ante) for the construction of grain godowns in the compound of the Spring Mills, Bombay, was accepted by Govt. In their No. L/6529/44 dated 12.12.1944 (pp.1-11 ante) they have now put in a total claim of Rs. 88,865 on account ofthe extra cost incurred by them in the construction of the said godowns for the reasons stated therein. The main reason advanced by them concerns the increased cost due to the explosion which took place in Bombay on 14.4.1944. Accordingly the R.L.A. has been requested to state whether the contractors have any legal claim on that account.

Ordinarily, the conditions of the contract will govern the relations between Government and contractors in determining the liability if any of Govt. for increased cost. In the present case, the Ex. Engr. Presy. Divn. has stated in para 6 of his endorsement No. 561 dated 19.1.1945, at p. 22, that the claims of the contractors are not covered by the terms of the contract. If so, the question under consideration is whether contractors are entitled to increased cost due to explosion which took place in Bombay on 14.4.1944 (vide para 1 and 2 of endorsement of the Supdt, Engr.

N. C.'s No. 158/1556 dated 13-2-1945 at p. 23 ante.)

4. Under section 18(2) of the Bombay Explosion (Compensation Ordinance, 1944 (Ordinance No. XXXII of 1944) no person shall have or he deemed ever to have had, other wise then thereunder right whether in contract or in tort or otherwise to any compensation or damages for inter alia, damage to or loss of any property, rights interests, due to or in any way arising out of the explosion, and no suit or other legal proceedings for any such compensation or damages shall, save as aforesaid, be x maintainable in any court against the Crown etc. Under section 17 of the said Ordinance no compensation is payable under the said Ordinance, for any loss of profits estimated to result from the explosion or for any other such consequential losses as may appear to be directly or otherwise attributable to the explosion. Thus, it appears that in the present case, the contractors would not be entitled to any compensation under the said Ordinance on account of the lose, if any suffered by them under a contract, is a result and increased cost in carrying out their works due to explosion which took place in Bombay on 14.4.1944, and they would not, therefore be entitled to apply for the same under sect. 5 thereof, as amended by Ordinance No. II of 1944. The proposal of Supt. Engr, Northern Circle, in para. 3 at p. 23 for that purpose, is not legally in order.

Id/- B. D. P.
4/4/45

B.K.S. 11/ .

Office of the R.L.A.

A copy of the contract has not been ✱ sent to R.L.A. The contractor, Rawji Sojpal & Sons, does not claim that the grounds on which he seeks payment of more than the contracted price, would yield him any legal relief in Court. He makes it fairly clear that he is seeking an ex gratis pay-ment on grounds other than legal. It is not for R.L.A. to say whether those grounds would justify an extra payment. Until he bases his claim on more legal grounds, all that R.L.A. can say is that the present papers do not reveal legal grounds for extra payment. Section 18(2) of the Bombay Ex-plosion (Compensation) Ordinance, 1944, bars a legal claim for compensation.

Id/-P.N.M.
10/4/45
Remembrancer of Legal Affairs.

U.R. to P.W.D. No. 2781 dated 11th April 1945.

B.K.S. 11/4.